

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6109

DONALD SPROUSE, JR.,

Petitioner - Appellant,

versus

WARDEN, BRUNSWICK CORRECTIONAL CENTER,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, District Judge. (CA-04-394-SGW)

Submitted: May 12, 2005

Decided: May 18, 2005

Before TRAXLER, KING, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Donald Sprouse, Jr., Appellant Pro Se. Kathleen Beatty Martin, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Donald Sprouse, Jr., seeks to appeal the district court's orders dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000). The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Sprouse has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Sprouse's motion to compel, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED